

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4857 OF 2005

Clariant (India) Limited .. Petitioners
V/s

Union of India .. Respondents

Mr.Prakash Shah i/by M/s.PDS Legal for the Petitioners.
Ms.S.V.Bharucha with Mr.A.S.Rao for the Respondents

CORAM: DR.S.RADHAKRISHNAN &
J.H.BHATIA, JJ.

DATE : 29/07/2005.

P.C.:

1. Rule. Rule is made returnable forthwith. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent Nos.1, 2, 3 and 4.

2. The learned Counsel for the Petitioners states that the Petitioners being aggrieved by the order passed by the Commissioner of Central Excise (Appeals), Mumbai-IV dated 14.07.2005, are desirous of filing an Appeal before the CESTAT. The learned Counsel for the Petitioners states that though the Petitioners are entitled to file an Appeal within a period of three months, the Petitioners are desirous to file the Appeal within a period of one month from today. The learned Counsel for the Petitioners therefore seeks a limited protection that till the Appeal is filed within a period of one month from today and thereafter till the disposal of the stay application which will be filed by the Petitioners before the CESTAT, the Respondents ought not to take any coercive measures including invoking of the Bank Guarantee.

3. Having regard to the facts and circumstances of the case and in view of the Circular dated 2nd June, 1998 issued by the Department and also in view of the Division Bench Judgment of this Court in the case of **Ocean Driving Center Ltd V/s.Union of India- 2005 (180) ELT 313 (Bom.)**, we hereby direct the Respondents that the Respondent shall not invoke the Bank Guarantee and shall not take any coercive measures against the Petitioners for a period of one month and thereafter till the date the stay application is decided by the CESTAT, provided the Appeal is filed by the Petitioners within a period of one month from today. Writ Petition stands disposed of in the above terms.

(DR.S.RADHAKRISHNAN J.)

(J.H.BHATIA J.)